

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF INTEGRATED       )  
RESOURCE PLANNING FOR THE       )  
PROVISION OF STANDARD OFFER       )       PSC DOCKET NO. 07-20  
SUPPLY SERVICE BY DELMARVA       )  
POWER & LIGHT COMPANY í .       )

COMMENTS OF ALAN MULLER ON INTEGRATED RESOURCE PLANNING, IN  
RESPONSE TO PSC ORDER 7122 DATED 23<sup>RD</sup> JANUARY 2007

In Order No. 7122, dated January 23, 2007, the PSC öopens this proceeding in response to the í [IRP] í submitted byí [DPL]í and ösolicits commentsö regarding öScope of Review of the IRP ö and öContents of the IRP and the Planning Process.ö

Integrated Resource Planning (IRP) is supposed to be an effort to identify an optimal mix of resources, particularly ödemand sideö and ösupply sideö resources to meet needs, in this case electric energy needs.

A Docket Schedule has been published, reflecting, to a degree, the entanglement between this Docket and Docket 06-241 (RFP). I am not clear as to how the schedule makes provision for discovery, evidentiary hearings, or oral argument before the PSC.

DPL has also asked the PSC to open a separate docket on a proposed öBlueprint for the Future.ö This appears to be a proposal for demand side measures intended to reduce, to a small degree, peak load and energy sales.

Rulings by the assigned Hearing Examiner appear to have the purpose of denying me (Muller) independent intervener status and are on appeal.

**A little history**

Delmarva Power & Light Company (DPL) carried out IRP in the 1990s, as directed by the PSC, pursuant to Guidelines adopted by the Commission in Regulation Docket No. 29. (See, appended to Order No. 3446, dated July 21, 1992, öGUIDELINES FOR INVESTOR-OWNED ELECTRIC UTILITY INTEGRATED RESOURCE PLANNINGö) DPL was required to submit an IRP every two years.

The above guidelines were specifically developed to apply to DPL, the only öinvestor-ownedö electric utility in Delaware. To the best of my understanding, these GUIDELINES are still in effect, except to the extent they might be overridden by ECURSA.

The Energy Policy Act of 1992 (EPACT) established certain Federal standards for IRP and directed state regulatory authorities to consider and determine whether these standards would apply to utilities subject to their regulation. The most important of these was intended to require that DSM investments not be less rewarding to a utility than supply side investments. The PSC ran a docket to consider these issues but failed to take definitive action.

I represented the Sierra Club and other interveners in some of these previous cycles of IRP by DPL (and the Delaware Electric Cooperative), including Docket 92-98. (See Order 3760, dated March 15, 1994.)

In reality, IRP ended with, or in anticipation of, the deregulation or restructuring legislation of 1999.

In the run up to deregulation or restructuring, DPL sought and received permission from the PSC to shut down much of its limited demand side (DSM) program portfolio. This regrettable action was supported by the Public Advocate and others.

The Electric Utility Retail Customer Supply Act of 2006 (EURCSA), codified primarily at 26 Del. C. Sec. 1007, et seq.) directed DPL to resume IRP.

(c)(1) DP&L is required to conduct Integrated Resource Planning. On December 1, 2006, and on the anniversary date of the first filing date of every other year thereafter (i.e., 2008, 2010 et seq.), DP&L shall file with the Commission, the Controller General, the Director of the Office of Management and Budget and the Energy Office an Integrated Resource Plan (IRP). In its IRP, DP&L shall systematically evaluate all available supply options during a ten (10)-year planning period in order to acquire sufficient, efficient and reliable resources over time to meet its customers' needs at a minimal cost.

The EURCSA statute was developed in a "Delaware Way" manner, with minimal public discussion and participation. Thus, the legislative intent is less clear than it otherwise might be in a statute with many unclear provisions.

**Procedurally, the present situation is strange and illogical:**

Two sets of guidance for carrying out IRP are in effect. One are those adopted by the PSC for DPL in 1992 (details below). The other is contained in the EURCSA statute adopted in 2006. The guidance in these two sources is similar but not identical.

Further, the EURCSA states "DP&L shall file with the Commission, the Controller General, the Director of the Office of Management and Budget and the Energy Office an Integrated Resource Plan (IRP)"

But it is unclear what the subsequent role of the other state agencies is in reviewing the IRP. ECURSA seems to us to give them no specific role to them beyond receiving a filing. This is in contrast to a clear role for all four in the semi-concurrent RFP proceeding.

Given the ongoing importance of IRP, I think it would be wise to seek clarification from the General Assembly regarding the legislative intent on this matter.

The ECURSA does state: "The Commission shall have the authority to promulgate any rules and regulations it deems necessary to accomplish the development of IRPs by DP&L."

The PSC needs to do this NOW. It needs to reconcile the two sources of guidance and clarify its role with respect to the other agencies in a rulemaking process, sometimes called a "Regulation Docket" by the PSC.

### **Three separate dockets**

"Integrated resource planning means the planning process of an Electric Distribution Company that systematically evaluates all available supply options, including but not limited to: generation, transmission and Demand-Side Management programs, during the planning period to ensure that the Electric Distribution Company acquires sufficient and reliable resources over time that meet their customers' needs at a minimal cost." (ECURSA definition)

The key word is INTEGRATED.

But, we are in effect faced with three separate proceedings:

- (1) A supply side, docket, No. 06-241, otherwise recognized as the "RFP" docket.
- (2) A proposed demand side docket, sought by DPL to consider its "Blueprint for the Future" DSM programs; and filed on Feb 6, 2007.
- (3) The present IRP docket, No. 07-20.

However this has come about, the absurdity of it can hardly be exaggerated. Reason and common sense calls for demand side and supply side resource needs to be identified in an IRP process BEFORE soliciting bids to provide such resources.

Worth mentioning is that another group, the [Delaware Sustainable Energy Utility Task Force](#), chaired by Sen. Harris McDowell, Chair of the Senate Energy Committee, seems to be focused on asserting the priority of DSM. This group has intervened in this Docket and has provided comments on available DSM potential.

ECURSA itself states: **“As part of the initial IRP process,** [my emphasis added] to immediately attempt to stabilize the long-term outlook for Standard Offer Supply in the DP&L service territory, DP&L shall file on or before August 1, 2006 a proposal to obtain long-term contracts. The application shall contain a proposed form of request for proposals (RFP) for the construction of new generation resources within Delaware for the purpose of serving its customers taking Standard offer Service.”

While the deadlines in the Act cause problems, the legislature seems to have recognized the need for the RFP process to be subordinate to the IRP process.

### **PSC Rules and public participation**

The PSC [Rules of Practice and Procedure](#) previously contained an excellent provision to the effect that “a corporation or association may be represented by a bona fide officer thereof.” (Rule 6) This facilitated public participation in utility regulatory matters on the part of public-interest organizations, most of which in Delaware do not have ready access to legal counsel. This provision should be restored to the Rules to support robust and balanced public interest representation.

### **DPL IRP filings (considered with subsequent staff letters and responses)**

I find that the IRP filings of Delmarva Power & Light Company (DPL) are so limited in scope and detail, and the underlying analytical processes so opaque, that little can be said in a quantitative sense.

However, I agree in a general way with the stated intent to rely FIRST on demand side (referring to both energy and capacity) resources. However, it is far from clear that DPL is proposing measures that would accomplish this.

Note: the ECURSA (26 Del. C. Sec. 1001) says: “Demand-side management means cost effective energy efficiency programs that are designed to reduce customers electricity consumption, especially during peak periods.” This seems a problematic definition because it is not entirely clear whether it refers to programs to conserve energy, or capacity, or both. Nor is it recognized that one may oppose the other: (Peak/shaving--valley/filling programs may have the effect of increasing total energy consumption.) In these comments, “DSM” refers to both energy and capacity conservation.

On the other hand, the valuation of environmental attributes, and the recognition of the overriding importance of carbon management, is far less than satisfactory.

The projection, or hope, that gas prices will trend downwards in the future is counter-intuitive and unconvincing.

The valuation of future carbon costs seems a “low ball.”

Many of the comments we have seen so far from Firestone, NRG, and Bluewater Wind seem valid. To a great extent, though, they are not a detailed critique of an optimization process because we don't have such a process to critique. Rather, they assert other priorities.

### **Source of the Problem**

I have intervened in several IRP dockets. In the course of this, and more recently, I reviewed a number of other proceedings in various jurisdictions.

The common factor in all is that IRPs produced by a utility invariably tend to merely echo and validate the existing business plan of said utility. How could we expect it to be otherwise.

We have in this Docket such a "compliance filing" from DPL. (The December 1, 2006 filing is only 32 pages!).

An IRP that reflects the true interests of ratepayers and the general public is only possible with strong "outside" participation, a focus on the public interest, broadly construed, and a determination by regulators NOT to rubber stamp "black box" model outputs.

### **"Collaborative" process needed**

Because of the complexity of IRP, such a proceeding typically has a strong "collaborative" component. This does not mean to me that people necessarily recognize a common interest, but rather than it is the only reasonably efficient way to exchange information and focus the issues.

In the present proceeding, viewed broadly as two existing dockets, one proposed docket, and one "task force," matters are fragmented beyond workability.

Added to this is the cynical refusal of bidding parties to release basic information on costs, offered prices, and emissions levels.

### **Recommendations**

#### **The PSC should:**

- (1) Reschedule the existing two dockets to give the IRP scheduling priority and decline to docket the DPL "Blueprint" filing separately. Rather, the "Blueprint," should be regarded as the DSM component of the DPL IRP compliance filing and be incorporated into said docket.
- (2) Develop a Memorandum of Agreement, with guidance from legislators if needed, defining the responsibilities and working arrangements between the four "state agencies."

- (3) Review its present attitudes towards public interest interveners and revise its Rules accordingly to restore protections for interveners.
- (4) Establish a "collaborative" process in which the interested persons concerned with the several now-separate proceedings, including Staff and Public Advocate, can meet together regularly for informal exchange of information.
- (5) Make provision for at least another cycle of comments and reply comments.
- (6) Make provision in a unified, or at least a consistent, schedule for discovery and evidentiary hearings should they prove necessary.
- (7) Reject the present DPL compliance filing as fundamentally lacking. (A letter from James Geddes dated December 13, 2006 outlines a few salient deficiencies in the filing. These have not, in our opinion, been remedied by subsequent materials.)

**My view of appropriate priorities for Delaware**

- (1) DSM;
- (2) Distributed solar to the extent feasible;
- (3) Utility-scale wind (offshore for Delaware);
- (4) Combined cycle gas (technically and seasonally complimentary to wind);
- (5) Coal capacity to be phased out in Delaware (particularly as operators resist cleanup regulations;
- (6) Garbage fume power to be phased out (along with garbage dumping).

I wish to reserve the opportunity to submit additional materials.

Respectfully submitted,

[signed]

Alan Muller

March 8, 2007

(A 24 hour extension having been granted by the Hearing Examiner.)